

General Terms and Conditions of Wentus GmbH

(Revised: January 2021)

1. General Provisions, Scope, Written Form

- a) The following General Terms and Conditions of Business ("Terms and Conditions") govern all our business dealings with our customers. These Terms and Conditions apply only if customer is an entrepreneur (section 14 of the German Civil Code [BGB]), a legal entity under public law, or a public-law special fund. Any of customer's terms and conditions that contradict or deviate from our own Terms and Conditions do not apply unless we have given our express written consent to their application. Our Terms and Conditions also exclusively apply in those cases where we make an unconditional delivery to customer notwithstanding being aware of customer's deviating business terms.
- b) Our Terms and Conditions also apply to all future transactions with our customer.
- c) Any individual terms agreed with our customer in a particular case (including collateral agreements, additions and modifications) have priority over these General Terms and Conditions in all cases. In the absence of proof to the contrary, the contents of any such terms shall be deemed to apply only if laid down in a written agreement or if we have confirmed such terms in writing.

2. Prices and Offers

- a) All our offers are subject to change without notice and become binding only upon our written confirmation of order.
- b) Our customer's purchase order is deemed to be a binding offer to contract. Unless otherwise stated in the purchase order, we are entitled to accept such offer to contract within three (3) weeks of its receipt.
- c) Insofar as we are unable to meet binding delivery periods for reasons beyond our control (unavailability of goods and/or services), we shall notify customer thereof without delay, providing details regarding the expected delivery period. If the goods and/or services are not available within the newly defined delivery period, we are entitled to rescind the contract in whole or in part; in that case, we shall immediately reimburse to customer any payment already made. Non-availability of performance in this sense includes, without being limited to, delayed delivery from our supplier, if we have entered into a concrete covering transaction, if neither we nor our supplier are responsible for the delay, or if we are under no obligation to procure the items in the individual case.
- d) Unless expressly agreed otherwise in writing, all our prices are net prices subject to VAT at the rate applicable at the time of delivery.
- e) Unless otherwise agreed, prices for deliveries are ex works (Incoterms Code 2010: EXW). Any additional performance is billed separately. If requested by our customer, we will obtain shipment insurance for the goods, the costs of which customer shall bear.
- f) In the event that our manufacturing costs and/or the prices of raw materials increase following confirmation of the order, we shall be entitled to invoice the price applicable at the date of delivery. In the event of a price increase by more than 10% our customer has the right to rescind the contract. Unless expressly agreed otherwise in writing, the costs of designs and printing plates are not included in the price quoted and will be invoiced separately.

3. Payment

- a) Unless expressly agreed otherwise in writing, our invoices are due for payment within 30 days, without deduction.
In the event that our customer fails to remit the amount invoiced within 30 days following the invoice date, customer will be in default even if we do not send a reminder to customer. If customer is in default of payment, we are entitled to charge interest on any outstanding amounts in accordance with the law; we also reserve the right to claim higher interests and other damage caused by default of payment. Higher default interest is payable where we prove that a greater extent of damage has been caused. We reserve the right to make further claims for any damage caused by the default.
- b) Customer is entitled to offset claims or exercise any right of retention only if and to the extent that customer's claim has been finally determined by a court, is undisputed, or has been acknowledged by us. Counterclaims that give customer the right to refuse performance within the meaning of section 320 of the BGB are also excluded from the prohibition of offsetting. In addition, customer is entitled to exercise a right of retention only insofar as customer's counterclaim is based on the same contractual relationship.
- c) If after conclusion of the contract it becomes apparent that our claim to payment of the purchase price is at risk due to customer's inability to pay (e.g. as a result of a petition in bankruptcy), we are legally entitled to refuse performance and/or to rescind the contract after setting a deadline, if necessary (section 321 of the BGB). In the event of contracts for the production of custom items (made to order items) we are entitled to rescind immediately; the legal provisions regarding the dispensability of setting a deadline remain unaffected. The foregoing is without prejudice to our right to demand damages if the legal requirements have been met.
- d) Customer is not entitled to transfer any claims arising from the contractual relationship without our prior consent in writing. Section 354(a) of the German Commercial Code [HGB] shall remain unaffected.

4. Delivery and Shipment

- a) Delivery is performed ex warehouse; the warehouse is also the place of performance for delivery and any subsequent performance. At the request of our customer, the goods will be shipped to a different destination at customer's expense (sale by delivery). Unless otherwise agreed, we are entitled to decide on the type of shipment (including but not limited to the carrier, shipment method, packaging).
- b) The risk of accidental loss and accidental deterioration of the goods passes to customer no later than upon delivery of the goods to customer. In the case of sale by delivery, however, the risk of accidental loss and accidental deterioration of the goods passes to customer upon delivery of the item to the forwarding agent, the carrier, or any other person or organisation designated to dispatch the goods. Where an acceptance test has been agreed, this is relevant for the transfer of risk. In addition, the legal provisions that are applicable to contracts for work and services also apply to the agreed acceptance test. Transfer and/or acceptance of the goods are equally deemed to have been made if customer is in default of acceptance.
- c) Shipment packaging and any other packaging cannot be returned, with the exception of replacement packaging. Customer is responsible for disposal of the packaging at customer's own expense.
- d) Delivery dates are binding only if we have expressly warranted in writing that they will be met.
- e) If we do not meet the delivery date, our customer is entitled and obligated to grant us an appropriate period of grace of at least three (3) weeks for the delivery. If the period expires to no avail, our customer may terminate the contract. The precondition for this is that our customer has previously expressly stated in writing that customer will not accept performance on expiry of the period of grace. In cases of force majeure, each of parties is entitled to rescind the contract after an aggregate period of two (2) months, unless one of the parties cannot reasonably be expected to accept this period for particular reasons. Force majeure events include without being limited to war, war-like situations, mobilization, import and export bans, and blockades. Other exceptional circumstances where no party is at fault include without being limited to shipment difficulties, operational disruptions, delays in the supply of raw materials, strikes, lock-outs and other industrial action, including cases where these affect our upstream supplier.
- f) If the event of delayed delivery, our customer is entitled to demand payment of damages in lieu of performance only in compliance with the terms of law and subject the limitations set out in section 5 hereof. Further, any claim for damages in lieu of performance requires our customer to inform us, when setting the period of grace, of the intention to claim for damages in the event that delivery/performance fails.

- g) Unless otherwise agreed, we are entitled to make partial deliveries provided that our customer can reasonably be expected to accept such partial deliveries.
- h) Overdeliveries and underdeliveries of up to 10% are permitted.

5. Liability for Defects

- a) Our specifications with regard to material, suitability (including for use on packaging machines), strength, and purpose may be regarded as agreements on the properties of the material only if we have expressly agreed this with our customer in writing. Public statements, promotions and advertising do not constitute contractual warranties of material properties. Deviations in dimensions and the thicknesses of the films are permitted in accordance with the GKV-examination and valuation clauses for Polyethylen-foils and derived products ("GKV PRÜF- UND BEWERTUNGSKLAUSEL für Polyethylen- Folien und Erzeugnisse daraus") set out by the German Association of the Plastics Converters (Gesamtverband Kunststoffverarbeitende Industrie e.V. - GKV) and do not entitle the customer to claim for defects. The GKV guidelines can be found at www.wentus.de/en/gkv. We provide no warranty that the packaging material delivered is compatible with the intended contents unless we have agreed on specific properties with customer, if a specific intended use is stated in the contract, or if the intended use is of a customary nature. This similarly applies to the durability and fastness of dyes and prints, even where these are stated by the dye manufacturers. Print orders are subject to the customary deviations in tolerance and colour, including but not limited to the differences between the proofs and the print run that are due to the printing technology. We are prepared to transfer to our customer any rights we may have to claim for defects against our supplier.
- b) We will first remedy any defects in the goods by subsequent performance, either by rectifying the defect or by replacing the goods as we decide. In the event of any rectification of defects or replacement delivery, we shall bear all expenses necessary for such subsequent performance, including without limitation transport and travel costs, labour costs and material costs, but only to the extent that such costs are not increased due to the fact that the purchased goods were moved to a place other than the place of performance.
- c) If subsequent performance fails twice, or if it is not carried out within an appropriate period of grace set by customer and lasting at least three (3) weeks, or if such a period of grace is dispensable under the terms of the law, our customer is entitled, at its option, either to reduce the purchase price or – in case of a material defect and/or breach of duty – to rescind the contract. Minor defects shall not result in a right of rescission.
- d) Our customer agrees to immediately verify that the delivered goods are in good condition and fit for the intended purpose, including by performing a test process to the extent reasonable (see sections 377 & 381 of the HGB). Customer shall report obvious defects in writing not later than within a period of five (5) working days following receipt of the goods. Customer shall report hidden defects in writing no later than within a period of five (5) working days of their discovery. Unless any defects are reported, the goods are deemed to have been accepted, and any assertion of any warranty claims in this respect is excluded. This shall not apply in the case of fraudulent intent on our part. Customer shall allow us, in all cases, to view and inspect the goods under operational conditions.
- e) If our customer decides to claim for damages following the failure of subsequent performance, the goods shall remain at customer's premises where this is reasonable.
- f) We assume no liability for defects in the case of second-hand goods.
- g) We offer no guarantees within the legal meaning of the term.
- h) In the event of defects, any claims our customer may assert for damages and/or compensation for wasted expenditures are subject to section 6 herein below and are otherwise excluded.

6. Limitation of Liability

- a) Unless otherwise provided in these Terms and Conditions including the provisions following herein below, our liability in case of breach of contractual and non-contractual duties is based on the relevant legal provisions.
- b) We are liable for damages – irrespective of their legal basis – in case of intent and gross negligence. In the event of slight negligence, we are liable, subject to any lesser extent of liability according to legal provisions (e.g. for diligence exercised in our own affairs), only for:
 - claims arising from damage to life, bodily integrity or health,
 - damage or loss caused by material breach of contract (i.e. a duty the fulfilment of which is of the very essence for the proper implementation of the contract and on whose fulfilment customer has generally relied or may generally rely); in such a case, however, our liability is limited to compensation for the foreseeable damage that typically occurs. In cases of property damage and any resulting financial loss, our liability is limited to a maximum of €1,000,000.00 per occurrence of damage or loss and a maximum of €2,000,000.00 per year.
- c) The limitations on liability according to section 6 b) herein above also apply to breach of duty by and to the advantage of persons for whose culpable conduct we are responsible under the terms of the law. The limitations on liability do not apply in the event that we intentionally misrepresented a defect or gave a warranty for the properties of the goods, or to any claims the customer may have under product liability law.
- d) If we provide general technical information, give advice or make a recommendation without being obligated to do so under the terms of a contract, we are not obliged to compensate for any damage that arises due to customer following such advice or recommendation, without prejudice to any responsibility under a contractual relationship that is separate from the actual purchase contract or under any other term of law.

7. Statute of Limitation

Any claims and rights our customer may have due to defects expire one year after the transfer of risk (from the time of delivery of the goods or of acceptance of the work). The foregoing exclusion of liability does not apply to any claims customer may have due to injury to life, body or health and/or due to grossly negligent breach of duty by ourselves or our agents. In these cases the statutory limitations apply.

8. Retention of Title

- a) The following retention of title applies to all transactions dealing with the supply of goods.
- b) We reserve the right of ownership in goods sold (hereinafter referred to as "Retained Goods") until full payment of all our present and future receivables from the contract for sale and from the ongoing business relationship (secured claim). In the event that our customer is in default of payment, and provided that the statutory conditions are fulfilled, we are entitled to rescind the contract and/or entitled to demand return of the Retained Goods on the basis of retention of title. Demand for the return of the goods does not automatically constitute rescission from the contract. Rather, we are entitled to demand merely the return of the goods while reserving the right to rescind the contract. If our customer fails to pay the purchase price when due, we may assert such rights only if we have previously given the customer an appropriate period of grace in which to make the payment or if a period of grace is dispensable under the terms of the law.
- c) If Retained Goods are combined, mixed or blended with goods not supplied by us in accordance with the provisions in sections 947 & 948 of the BGB, we become co-owners in accordance with the legal provisions. If our customer acquires sole ownership through the combining, mixing or blending of goods, customer hereby assigns joint ownership to us based on the value of the Retained Goods in proportion to the other goods at the time when the goods are combined, mixed or blended. In such cases customer shall keep the item which is our property or joint property, and which shall likewise be deemed Retained Goods in accordance with the provisions set out below, in safe custody at no charge to us. Inasmuch as our customer has acquired rights to the Retained Goods at the time they are processed, combined, mixed or blended, said rights shall also apply to the new item.
- d) If customer sells Retained Goods, alone or together with other goods not supplied by us, customer hereby assigns to us the claims including all accessory rights arising from such resale. We hereby accept the assignment. If the Retained Goods are co-owned by us, then the assignment of the claims shall extend to the amount corresponding to our share of the value of the joint ownership.

- e) Our customer is entitled to resell, use or incorporate the Retained Goods only in the customary and ordinary course of business and only on condition that the claims that were previously assigned are actually transferred to us.
Our customer is not entitled to dispose of the Retained Goods in any other way, including without limitation by pledging them or using them as security.
- f) Reserving the right of revocation, we authorize customer to collect the claims assigned to us. We will not exercise our right to collect as long as our customer meets its payment obligations. Customer shall, upon request, name the debtors of the assigned claims and shall advise them of assignment. We are authorised to advise the debtors of the assignment ourselves.
- g) Customer shall immediately inform us of any execution proceedings instituted by third parties against Retained Goods or assigned claims, submitting any documents required for filing an objection.
Our customer has a duty to reimburse us for the costs and damages of legal action according to section 771 of the Code of Civil Procedure (ZPO) (third-party counterclaim) if such action is successful and if execution proceedings against the third party with respect to the judicial and extra-judicial costs fail.
- h) Both the right of resale, use or incorporation of the Retained Goods as well as the authorisation to collect the assigned claims expires, if customer suspends payments, if insolvency proceedings are filed or commenced against customer, or in the event of proceedings conducted with creditors for an out-of-court settlement to achieve debt retirement. The authorisation to collect shall likewise be terminated in the case of protest of a cheque or bill.
- i) If our customer does not intend to resell the supplied item immediately, although being entitled to do so, or if we demand insurance to be taken out, our customer shall insure the goods that belong to us against the usual risks, for an appropriate amount and at customer's expense, and shall assign any insurance claims to us. We are also entitled to pay the insurance premiums and invoice these to our customer.
- j) In the event that we rescind the contract for sale due to breach of contract on the part of customer, our customer shall bear the costs, including but not limited to the costs of taking back and exploiting the supplied item. Said costs amount to 10% of the sale proceeds plus value-added tax, without the necessity of further proof. The costs may be higher or lower if proved to be higher by ourselves or proved to be lower by our customer.
- k) In the event that our customer fails to fulfil its obligations despite a reminder and despite a period of grace being set, we are entitled to collect any of the retained goods still present at customer's premises. The assertion of retention of title and the attachment of the delivery item by us do not constitute rescission of contract. Our customer hereby gives its irrevocable consent to allowing us into the premises in order to collect the Retained Goods.
- l) We shall release Retained Goods and any objects or claims substituting the Retained Goods insofar as their value exceeds the amount of the secured claims by more than 50%. We are entitled to select the individual objects to be released at our own discretion.

9. Designs/Printing Plates

- a) We retain sole execution rights and the sole copyright to our designs, technical documentation (e.g. drawings, plans, computations, calculations, references to DIN standards), and any other product descriptions or documents. In instances where our customer has provided templates and ideas, these rights shall relate to the part designed by us.
- b) In the event that no order is placed, our customer has a duty to return to us all the documents that we provided.
- c) When providing templates and ideas, customer shall indemnify us against any claims whatsoever by third parties that may assert rights to said templates and ideas. Customer shall give us appropriate support in defending the claims made against us in such cases.
- d) The designs, artwork, printing plates and similar that we produce shall remain our property, even if customer was invoiced for the production costs.

10. Severability

Should any of the provisions of this contract be or become invalid, this shall have no effect on the validity of the other provisions. The parties hereby agree that the invalid provision shall be replaced by one which is valid and most closely approximates to the economic purpose intended by the invalid provision.

11. Applicable Law, Place of Performance and Venue

- a) The present Terms and Conditions and all legal relations between the parties hereto are governed exclusively by the laws of the Federal Republic of Germany. Both parties agree that private international law, international uniform law, and the UN Convention on Contracts for the International Sale of Goods (CISG) are excluded.
- b) If the customer is a merchant within the meaning of the HGB, a legal entity under public law, or a public-law special fund, the exclusive place of jurisdiction for all disputes – including without limitation international disputes – arising directly or indirectly out of this contract, is Höxter, Germany. Notwithstanding the above we are also entitled to take legal action against the customer at customer's general legal venue.
- c) Unless otherwise agreed, the place of performance is Höxter.

Wentus GmbH

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